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Real Consulting & Software Development, LLC,
and Debber Family Foundation

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ADMIRAL INSURANCE COMPANY, a
Delaware corporation,

Plaintiff,

v.

J. DALE DEBBER; LORNA MARTIN; DATA
CONTROL CORPORATION; ARISTOS
ACADEMY; COMPLINE, LLC; PROVIDENCE
PUBLICATIONS, LLC; REAL CONSULTING &
SOFTWARE DEVELOPMENT, LLC; DEBBER
FAMILY FOUNDATION; VICKIE ALTMAN;
and SCOTT ALTMAN,

Defendants.

Case No. 2:05-CV-00343-FCD-EFB

**STIPULATION AND ORDER RE:
ABSENCE OF ANY DISPUTED FACTS
TO PRECLUDE ENTRY OF FINAL
JUDGMENT IN FAVOR OF PLAINTIFF
ADMIRAL INSURANCE COMPANY**

1 WHEREAS, on February 22, 2005, plaintiff Admiral Insurance Company (“Admiral”)
 2 filed a complaint (“Complaint”) that sought, in the first and second claims for relief, the rescission
 3 of the employment practices liability insurance policies issued by Admiral to Data Control
 4 Corporation (“DCC”) for the policy period December 13, 2002 to December 13, 2003 bearing
 5 policy No. 4343312/1 (“2002 Policy”) and December 13, 2003 to December 13, 2004 bearing
 6 policy No. 4343312/2 (“2003 Policy”) (collectively “Admiral Policies”);

7 WHEREAS the third claim for relief of the Complaint sought reimbursement from
 8 defendants J Dale Debber, Lorna Martin, Data Control Corporation, Aristos Academy, Compline,
 9 LLC, Providence Publications LLC, Real Consulting & Software Development, LLC, and Debber
 10 Family Foundation (collectively “DCC Parties”) of the amounts paid by Admiral pursuant to the
 11 2003 Policy to defend the claims (“Altman Claims”) asserted against the DCC Parties by Vickie
 12 and Scott Altman (“Altmans”) in the now-dismissed action filed by the Altmans in Nevada
 13 County Superior Court, captioned *Vickie Altman, et al. v. J Dale Debber, et al.*, bearing case No.
 14 69850;

15 WHEREAS, on November 15, 2005, Admiral filed, pursuant to an order and stipulation of
 16 the parties, a first amended complaint (“Amended Complaint”) that added a fourth claim for relief
 17 for reimbursement from the DCC Parties of the amount paid by Admiral pursuant to the 2003
 18 Policy to fund the entirety of the Offer of Judgment that had been accepted by the Altmans and
 19 that resolved the Altman Claims;

20 WHEREAS, on July 20, 2006, this Court entered an Order granting Admiral’s motion for
 21 summary adjudication to rescind the Admiral Policies and denying the DCC Parties’ motion for
 22 summary judgment;

23 WHEREAS, it is undisputed that Admiral paid \$125,733.87 (“Defense Payment”)
 24 pursuant to the 2003 Policy for the defense of the Altman Claims, comprised of the following
 25 payments to defense counsel retained by the DCC Parties: March 4, 2005 payment of \$78,857.87;
 26 August 31, 2005 payments of \$2,362.50 and \$6,916.00; September 9, 2005 payment of \$8,289.00;
 27 November 15, 2005 payments of \$765.00 and \$28,543.50;

28 WHEREAS, it is undisputed that on September 26, 2005, Admiral issued a payment of

1 \$350,000.00, pursuant to the 2003 Policy, to fund the DCC Parties' Offer of Judgment that had
2 been accepted by the Altmans ("Indemnity Payment");

3 WHEREAS, the Defense and Indemnity Payments are the subject, respectively, of
4 Admiral's third and fourth claims for relief in the Amended Complaint and by virtue of the
5 Court's July 20, 2006 Order, no other claims remain in this action;

6 WHEREAS, there are no remaining parties to this Action other than Admiral and the DCC
7 Parties (collectively the "Parties");

8 WHEREAS, no dispute exists between the Parties as to the amount of the Defense and
9 Indemnity Payments that were paid by Admiral pursuant to the 2003 Policy;

10 IT IS HEREBY STIPULATED AND AGREED by and between plaintiff Admiral and the
11 DCC Parties, through their respective counsel, as follows:

12 1. By virtue of the Court's ruling on July 20, 2006 rescinding the Admiral Policies,
13 no issues remain in dispute that require trial or that would prevent the Court from entering a
14 money judgment in favor of Admiral in the amount indisputably paid by Admiral under the 2003
15 Policy. Accordingly, the Court is entitled to enter a final judgment ("Judgment") in favor of
16 Admiral as to all claims for relief in the Amended Complaint and providing that Admiral shall
17 recover from the DCC Parties the sum of \$475,733.87 with post-judgment interest thereon at the
18 applicable rate as provided by law and costs in an amount to be determined by the Clerk.

19 2. Although the parties have stipulated to the absence of disputed facts set forth
20 herein so as to allow the entry of a final judgment, the right to appeal is expressly reserved.

21 3. The Judgment in the form attached hereto as Exhibit "A" may be entered by the
22 Court without the necessity of the Parties proceeding with the Final Pretrial Conference scheduled
23 for September 22, 2006 or the trial scheduled for November 28, 2006.

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1 Dated: September __, 2006 **CHARLSTON, REVICH & CHAMBERLIN LLP**
2 **ROBERT D. HOFFMAN**

3
4 By: _____
5 Robert D. Hoffman
6 Attorneys for Plaintiff Admiral Insurance Company

7 Dated: September __, 2006 **DEMPSEY & JOHNSON LLP**
8 **STEPHEN C. JOHNSON**

9 By: _____
10 Stephen C. Johnson
11 Attorneys for Defendants J Dale Debber, Lorna Martin, Data
12 Control Corporation, Aristos Academy, Compline, LLC,
13 Providence Publications LLC, Real Consulting & Software
14 Development, LLC, and Debber Family Foundation

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16 IT IS SO ORDERED.

17 Dated: September 21, 2006

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19 /s/ Frank C. Damrell Jr.
20 UNITED STATES DISTRICT COURT JUDGE
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